

EXHIBIT C

8ARUKARS

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA

4 v.

07 CR 541(RPP)

5 DANIEL B. KARRON,

6 Defendant.

7 -----x

8 New York, N.Y.
9 October 27, 2008

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11 Before:

12 HON. ROBERT P. PATTERSON

13 District Judge

14 APPEARANCES

15 MICHAEL J. GARCIA

16 United States Attorney for the
17 Southern District of New York

BY: CHRIS EVERDELL

18 CHI T. STEVE KWOK

Assistant United States Attorneys

19 RUBINSTEIN & COROZZO, LLP

Attorneys for Defendant

20 BY: RONALD RUBINSTEIN
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1 (Case called)

2 THE COURT: Under Rule 35 I sent out a memo to counsel
3 on Friday because I got word from the Department of Probation
4 that the Department of Probation would not honor the sentence
5 that I imposed in this case and would imprison Dr. Karron for
6 15 months and that you could not have a sentence that imposed
7 home confinement first. I had imposed home confinement first
8 so that Dr. Karron could take care of his mother during that
9 period, but the Bureau of Prisons won't observe it.

10 I am in a difficult position.

11 I would be glad to give you the memo from the Bureau
12 of Prisons from the probation department if you want to look at
13 it.

14 MR. RUBINSTEIN: Your Honor, that was going to be my
15 request, what is contained on page 2. In order to address the
16 Court's intention that Dr. Karron be allowed to care for his
17 elderly mother, to recommend that you set a voluntary surrender
18 date in the future and entertain requests according to the
19 situation.

20 THE COURT: We did extend the voluntary surrender
21 date, did we not?

22 MR. RUBINSTEIN: No, we did not have any provision for
23 voluntary. What I would respectfully request for your Honor is
24 that we put it down for the first week in January and then see
25 what the situation is with his mother and then your Honor could

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1 make the determination about the voluntary surrender at that
2 time. I think that would be in accordance with the intent of
3 the Court that he be --

4 THE COURT: You can file a notice of appeal for one
5 thing. Let's not overlook that. But I don't see how, having
6 imposed a sentence, I can change it. I don't know that I have
7 any power to do what you are suggesting, for one thing.

8 MR. RUBINSTEIN: You always have the power, your
9 Honor, as far as when the defendant can surrender.

10 THE COURT: That part, if I re-impose sentence, but
11 putting off sentence as you suggest -- or maybe I misunderstood
12 you -- judgment has been entered in this case. And when they
13 got the judgment, they replied to this memorandum saying that
14 the Bureau of Prisons wouldn't honor the judgment because of
15 their regulations.

16 MR. RUBINSTEIN: Maybe I misspoke. I am in agreement
17 with the recommendation of the probation department. The Court
18 can set a voluntary surrender date in the future. And then at
19 that time you can entertain a request for an adjournment of
20 that surrender date.

21 THE COURT: I am perfectly willing to set a voluntary
22 surrender date in the future, but at this time it would be now
23 because I have to act within one week.

24 MR. RUBINSTEIN: I would ask your Honor, if your Honor
25 would entertain a voluntary surrender date at this time for the

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1 first week in January.

2 THE COURT: I have no problem with that.

3 Does the government have any problem with that?

4 MR. KWOK: If I understand Mr. Rubinstein correctly,
5 he is suggesting the setting of a voluntary surrender date
6 today with extensions from time to time.

7 THE COURT: As I understand it, he is saying I agree
8 that the sentence has to be modified as recommended by the
9 probation department, but I want to have his surrender date
10 stayed until the first week in January.

11 MR. KWOK: The government's position is that a
12 surrender date should be set a few weeks from now. As
13 Mr. Rubinstein is aware, essentially putting it off until later
14 and with indefinite extensions, depending on the
15 circumstances --

16 THE COURT: I am not going to do indefinite
17 extensions. If you file a notice of appeal, that is another
18 matter. Then you can ask for bond pending appeal. I cannot go
19 putting it off and off and off.

20 MR. KWOK: That is the government's concern because of
21 the uncertainty of the mother's health situation. We are
22 concerned that this would amount to, essentially, bail pending
23 appeal without making an application for bail pending appeal,
24 and we all know that the standard is extremely high.

25 The government would ask that a surrender date be set

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1 no later than a few weeks from now. And then if Mr. Rubinstein
2 wants to file a notice of appeal, he can ask the Circuit Court
3 for relief if he wants appeal or to have bail pending appeal.

4 MR. RUBINSTEIN: Your Honor, I don't think that meets
5 with what your Honor's initial intention was, and I think what
6 the probation department says spells it out exactly to
7 accomplish --

8 THE COURT: Give me back my memorandum.

9 MR. RUBINSTEIN: Page 2.

10 THE COURT: I have some other people waiting here and
11 I cannot deliberate on this forever here.

12 I see what you are pointing to, but I cannot keep
13 putting it off forever on that type of application, bail
14 pending appeal. I don't think that Dr. Karron is likely to
15 flee, but I am not going to do that, Mr. Rubinstein, the way
16 that you are suggesting. I will put it off for over the
17 holidays so that he can surrender after January 10th or if you
18 get bail pending appeal until January 10th.

19 MR. RUBINSTEIN: Would you entertain it now?

20 THE COURT: I would rather have it sometime later
21 because I have these people waiting.

22 MR. RUBINSTEIN: We will put it down for January 10th,
23 did your Honor say?

24 THE COURT: That will get us past the Christmas
25 holidays, and I will impose a split sentence of seven and a

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1 half months of imprisonment at the Bureau of Prisons to be
2 followed by seven and a half months of home confinement and
3 supervised release so that he can take care of his mother. And
4 that term of supervised release would be three years, the first
5 seven and a half months being home confinement.

6 It will be the same conditions of supervised release
7 that I imposed on October --

8 MR. RUBINSTEIN: -- 20th, your Honor.

9 THE COURT: 20th, and the same standard conditions
10 that I imposed on that date will also remain as part of this
11 judgment.

12 The special assessment of \$100 will also apply, as
13 well as the restitution order of October 20 and the amount of
14 payments to be made pursuant to the restitution order. In
15 other words, the monthly payment, 10 percent of gross monthly
16 income, and the period of supervision to commence 30 days after
17 release from home confinement.

18 And the defendant shall notify the United States
19 Attorney of any change of address during the period of
20 supervision.

21 Special instructions with regard to the payment of the
22 monetary penalties will apply.

23 Is there anything further?

24 MR. RUBINSTEIN: I take it that the sentence
25 technically and legally is imposed as of today, so the 10 days

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1 for filing a notice would start today and not --

2 THE COURT: I guess it would be from the date of this
3 judgment or this sentence and that you have 10 days to
4 challenge the terms of the sentence.

5 MR. KWOK: Do I understand the January 10 date to be
6 the surrender and should defense counsel wish to make bail
7 pending appeal --

8 THE COURT: He would have to make it before January
9 10th so that he can get a decision from the court on the bail
10 pending appeal.

11 MR. RUBINSTEIN: Thank you very much, your Honor.

12 MR. KWOK: Thank you, your Honor.

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